IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

Con.Case(C).No. 1553 of 2006(S)

AGAINST THE JUDGEMENT/ORDER IN WPC.14097/2005 Dated 27/06/2006

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PETITIONER

A.B.KUTTAN, AGED 44 YEAR,
S/O.DAMODARAN, PROPRIETOR,
HOTEL MAHABALI, MAPRANAM,
IRINJALAKUDA.

BY ADV. SRI.A.SUDHI VASUDEVAN

RESPONDENTS:

P.MARA PANDIYAN,
SECRETARY TO GOVERNMENT,
AGE AND S/O. NOT KNOWN TO THE PETITIONER,
TAXES (A) DEPARTMENT, GOVT. OF KERALA,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-1.

BY G.P. SRI. T.B. HOOD

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 21/12/2006, ALONG WITH RP NO. 1166 OF 2006
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

C.O.C.NO.1553/2006 & RP 1166/2006

Dated this the 21st day of December, 2006

JUDGMENT

Heard Review Petition and Contempt Case together. Review petition is filed by State to recall the interim order dated 14.12.2006 passed in the Contempt Case directing the Excise Commissioner to issue bar licence to the writ petitioner's hotel for the current financial year, that is, 2006-07 on his remitting full licence fee for the whole year. According to the review petitioner by issuing Annexure A8 produced along with the Contempt Petition, judgment is complied with. I am unable to accept this contention because licence is declined under Annexure A8 only because approval of petitioner's restaurant by the Central Agency expired on 26.5.2004. It is clear from Annexure A3 that Central Agency has discontinued granting of approval of restaurants and the matter is delegated to the State Tourism Department. Subsequently, Annexure A5 is issued by the State Tourism Department approving the petitioner's restaurant under Three-Star category for a period of three years. Obviously, the scope of the judgment is that, if the petitioner's restaurant has approval with anterior date, then petitioner is entitled to bar licence. In fact, Writ Appeal filed

by another neighbouring bar owner against judgment in W.P.(C) was rejected because Supreme Court has dismissed the SLP against judgment based on which this Court allowed the WPC. In view of Annexure A5, petitioner sought for continuance of the licence as three-star restaurant. Since petitioner's restaurant continues to enjoy approval as three-star category which is entitled for a bar licence under Rule 13(3) of the Foreign Liquor Rules, petitioner is certainly entitled to bar licence. Since violation is prima facie on account of misunderstanding of the scope of the judgment, Contempt Case is closed and Review Petition is dismissed with direction to the Government Secretary to sanction bar licence to the petitioner's restaurant for 2006-2007 forthwith and with further direction to the Excise Commissioner to issue FL3 bar licence to the petitioner's restaurant within one week from the date of receipt of sanction from the Government Secretary, after receiving full bar licence fee from the petitioner. Petitioner will be bound by other licence conditions for the year 2006-07.

(C.N.RAMACHANDRAN NAIR)

Judge